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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,243	03/14/2001	Richard Muhlbacher	LEAR 0835 PUS	4800

7590 12/29/2004

Christopher W. Quinn
Brooks & Kushman P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1351

EXAMINER

THOMPSON, CAMIE S

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/808,243

Applicant(s)

MUHLBACHER ET AL.

Examiner

Camie S Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on AfterFinal Amendment filed 12/02/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-7, 11-12, 18-19, 22, 24-25 is/are rejected.
- 7) ☒ Claim(s) 5, 8-10, 15-17, 20 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Examiner regrets the untimely reopening of prosecution.
2. Applicant's amendment and accompanying remarks filed December 2, 2004 have been acknowledged.
3. Examiner acknowledges amended claims 1 and 22.
4. Examiner acknowledges cancelled claim 13.
5. The rejection of claims 1-4, 6-7, 10-12, 14 and 18 under 35 U.S.C. 102(b) as being anticipated by Caudill, Jr., U.S. Patent Number 4,541,885 is withdrawn due to applicant's amended claim 1.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 6-7, 11-12, 18-19, 22, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caudill, Jr., U.S. Patent Number 4,541,885.

Caudill teaches an interior component for an automobile that comprises a cover layer that is applied over a two-layer foam laminate as per instant claim 1 (see column 2, lines 30-41). The reference also discloses that component comprises an intermediate layer that is a thin, flexible polyurethane foam (see column 1, lines 35-40 and column 2, lines 35-40). Additionally, the

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reference discloses upper and lower foam (polyurethane) panels as per instant claims 1 and 11-12 (see Figure 2 and column 2, lines 18-29). It is also disclosed in the reference that the cover layer is a decorative layer as per instant claim 1 (see column 2, lines 30-40). Figure 2 of the reference discloses that the upper and lower foam panels are interconnected along their whole area of contact and that the upper foam panel has a smaller lateral dimension than the lower foam panel as per instant claims 2 and 6. Also, figure 2 of the reference discloses that the upper and lower foam panels have different material thicknesses as per instant claim 3. Claims 1, 7 and 18 are product-by-process claims. Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior art was made by a different process. The manner in which the foam panels bonded together does not make the component of the Caudill reference different from applicant's component. Both Caudill and applicant have upper and lower foam panels that are bonded together. The Caudill component is the same as applicant's. As for instant claim 22, the limitation "inside roof lining" goes to intended use and is given little patentable weight in a product claim. In response to applicant's argument that, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459

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(CCPA 1963). The reference does not disclose the flexural strength of the support layer or the porosity of the upper and lower foam layers. In Caudill, the support layer comprises the upper and lower foam layers. The porosity of the foam layers affects the absorption of sound.

Additionally, it would be obvious to one of ordinary skill in the art that the flexural strength of the support layer (upper and lower foam panel) would be greater than the decorative layer and the intermediate layer being that there are two foam panel which make up the support panel. It would have been obvious to one of ordinary skill in the art to have the upper and lower foam panel have different porosities in order to provide sound absorption.

Claims 5, 8-10, 14, 15-17 and 20-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not provide for the recited interior lining component further including a reinforcing mat and cover fleece.

8. Claim 23 is allowed. The prior art does not provide for an inside roof lining for a vehicle, the roof lining:

- at least one decorative layer forming a facing of the roof lining;

- an intermediate layer covered by the decorative layer, the intermediate layer including a cushioning layer;

- a first reinforcing mat disposed above the intermediate layer, the reinforcing layer comprising fibers;

- a support layer disposed above the first reinforcing layer, the support layer including

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lower foam panel, an upper foam panel and an adhesive layer disposed between the foam panels for interconnecting the foam panels together, each foam layer comprising polyurethane; and
a second reinforcing mat disposed above the support layer, the second reinforcing mat comprising fibers.

Response to Arguments

9. Applicant's arguments with respect to claims 1-4, 6-7, 10-12, 14 and 18 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L Dye, can be reached at (571) 272-3186. The fax phone number for the Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RENA DYE
SUPERVISORY PATENT EXAMINER
A.U. 1774 12/23/09